

## Defense Nuclear Fac. Safety Board

## § 1703.105

disclosure could reasonably be expected to risk circumvention of the law, or

(6) Could reasonably be expected to endanger the life or physical safety of any individual;

### **§ 1703.105 Requests for board records not available through the public reading room (FOIA requests).**

(a) Upon the request of any person, the Board shall make available for public inspection and copying any reasonably described agency record in the possession and control of the Board, but not available through the Public Reading Room, subject to the provisions of this part. If a member of the public files a request with the Board under the FOIA for records that the Board determines are available through the Public Reading Room, the Board will treat the request under the simplified procedures of § 1703.103.

(b)(1) A person may request access to Board records that are not available through the Public Reading Room by using the following procedures:

(i) The request must be in writing and must describe the records requested to enable Board personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester, including the names and titles of any Board personnel who have been contacted regarding the request prior to the submission of the written request.

(ii) A request for all records falling within a reasonably specific and well-defined category shall be regarded as conforming to the statutory requirement that records be reasonably described. The request must enable the Board to identify and locate the records by a process that is not unreasonably burdensome or disruptive of Board operations.

(2) The request should be addressed to the Designated FOIA Officer and clearly marked "Freedom of Information Act Request." The address for such requests is: Designated FOIA Officer, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004. For purposes

of calculating the time for response to the request under § 1703.108, the request shall not be deemed to have been received until it is in the possession of the Designated FOIA Officer or his designee.

(3) The request must include:

(i) A statement by the requester of a willingness to pay the fee applicable under § 1703.107(b), or to pay that fee not to exceed a specific amount, or

(ii) A request for waiver or reduction of fees.

(4) No request shall be deemed to have been received until the Board has:

(i) Received a statement of willingness to pay, as indicated in § 1703.105(b)(3)(i), or

(ii) Received and approved a request for waiver or reduction of fees. However, the FOIA request shall be deemed to have been received if the request for waiver or reduction of fees includes a statement of willingness to pay the fee anticipated to be incurred in processing the request under this section, or to pay that fee not to exceed a specific amount, should the request for fee waiver or reduction be denied.

(c) with respect to records in the files of the Board that have been obtained from other federal agencies:

(1) Where the record originated in another federal agency, the Designated FOIA Officer shall refer the request to that agency and so inform the requester, unless the originating agency agrees to direct release by the Board.

(2) Requests for Board records containing information received from another agency, or records prepared jointly by the Board and other agencies, shall be treated as requests for Board records. The Designated FOIA Officer shall, however, coordinate with the appropriate official of the other agency. The notice of determination to the requester, in the event part or all of the record is recommended for denial by the other agency, shall cite the other agency Denying Official as well as the Designated FOIA Officer if a denial by the Board is also involved.

(d) If a request does not reasonably describe the records sought, as provided in paragraph (b) of this section, the Board response shall specify the reasons why the request failed to meet those requirements and shall offer the

requester the opportunity to confer with knowledgeable Board personnel in an attempt to restate the request. If additional information is needed from the requester to render records reasonably described, any restated request submitted by the requester shall be treated as an initial request for purposes of calculating the time for response under §1703.108.

(e)(1) *Expedited processing.* A person may request expedited processing of an FOIA request when a compelling need for the requested records has been shown. “Compelling need” means:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Federal Government activity, if the request is made by a person primarily engaged in disseminating information; or

(iii) The records pertain to an immediate source of risk to the public health and safety or worker safety at a defense nuclear facility under the Board’s jurisdiction.

(2) A requester seeking expedited processing should so indicate in the initial request, and should state all facts supporting the need to obtain the requested records rapidly. The requester must also state that these facts are true and correct to the best of the requester’s knowledge and belief.

(3) When a request for expedited processing is received, the Board will respond within ten calendar days from the date of receipt of the request, stating whether or not the request has been granted. If the request for expedited processing is denied, any appeal of that decision will be acted upon expeditiously.

[56 FR 21261, May 8, 1991, as amended at 62 FR 66815, Dec. 22, 1997]

**§ 1703.106 Requests for waiver or reduction of fees.**

(a) The Board shall collect fees for record requests made under §1703.105, as provided in §1703.107(b), unless a requester submits a request in writing for a waiver or reduction of fees. The Designated FOIA Officer shall make a determination on a fee waiver or reduc-

tion request within five working days of the request coming into his possession. No determination shall be made that a fee waiver or reduction request should be denied, until the Designated FOIA Officer has consulted with the General Counsel’s Office. If the determination is made that the written request for a waiver or reduction of fees does not meet the requirements of this section, the Designated FOIA Officer shall inform the requester that the request for waiver or reduction of fees is being denied and set forth his appeal rights under §1703.109.

(b) A person requesting the board to waive or reduce search, review, or duplication fees shall:

(1) Describe the purpose for which the requester intends to use the requested information;

(2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record;

(3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding;

(4) Describe the likely impact of disclosure of the requested records on the public’s understanding of the subject as compared to the level of understanding of the subject existing prior to disclosure;

(5) Describe the size and nature of the public to whose understanding a contribution will be made;

(6) Describe the intended means of dissemination to the general public;

(7) Indicate if public access to information will be provided free of charge or provided for an access or publication fee; and

(8) Describe any commercial or private interest the requester or any other party has in the agency records sought.

(c) The Board shall waive or reduce fees, without further specific information from the requester if, from information provided with the request for agency records made under §1703.105, it can determine that disclosure of the information in the agency records is in the public interest because it is likely